

ISSUE DATE: November 18, 1996

DOCKET NO. G-002/M-96-625

ORDER DENYING PETITION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Marshall Johnson
Dee Knaak
Mac McCollar
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition by Northern States
Power Company - Gas Utility for a Variance
from Minn. Rules 7825.2700, Subp. 8

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PROCEDURAL HISTORY

On May 31, 1996 Northern States Power Company - Gas Utility (NSP or the Company) filed a petition asking the Commission to vary Minn. Rules 7825.2700, subp. 8, which requires gas utilities to make annual refunds to their customers of total amounts refunded to them by suppliers and transporters of natural gas. The Company stated its new computer system was not yet programmed to process these refunds and claimed the amounts at issue did not justify the cost of disbursement in any case. The Company asked to defer refunds until total amounts to be refunded reached \$500,000.

On August 1, 1996 the Department of Public Service (the Department) filed comments opposing the Company's request. In the alternative, the Department suggested interpreting the rule to allow the Company to make the refund as part of its annual purchased gas adjustment (PGA) true-up, required under Minn. Rules 7825.2700, subp. 7.

On August 12, 1996 the Company filed reply comments supporting the Department's alternative proposal.

The matter came before the Commission on October 10, 1996.

FINDINGS AND CONCLUSIONS

For the reasons set forth below, the Commission will require the Company to make the refund as soon as practicable and will require interest at the Company's tax-adjusted authorized rate of return until the refund is made.

I. The Rule at Issue

The rule at issue provides as follows:

Subp. 8. **Refunds.** Refunds and interest on the refunds, that are received from the suppliers or transporters of purchased gas and attributable to the cost of gas previously sold, must be annually refunded by credits to bills, except that cumulative refund amounts equal to or greater than \$5 per customer must be refunded within 90 days from the date the refund is received from a supplier or transporter. Refunds must be allocated to customer classes in proportion to previously charged costs of purchased gas. Within classes, the refund amount per unit must be applied to bills on the basis of individual 12-month usage. The utility shall add interest to the unrefunded balance at the prime interest rate.

Minn. Rules 7825.2700, subp. 8.

In brief, the rule requires gas utilities to return to customers within 90 days supplier and transporter refunds of \$5.00 or more. Smaller refunds (which are at issue) are to be accumulated and returned once a year. Each customer's refund is to be calculated on the basis of twelve months' usage.

II. The Company's Request

The Company seeks to postpone making the annual refund until the total amount to be refunded reaches \$500,000. The advantage of postponement would be lower administrative costs per dollar refunded. The disadvantages would be that customers would not receive their money as soon and that fewer of the customers who paid the charges refunded to the Company would receive refunds.

The Commission has long held, and continues to believe, that administrative costs rarely, if ever, justify failing to comply with the annual refund rule. As the Commission has explained in previous Orders, in enacting the rule the Commission balanced the costs and benefits of requiring annual refunds and determined that the benefits outweighed the costs.¹ This is a fundamental policy decision to which exceptions are not lightly made.

As monopoly providers of essential services, utilities have a special duty to refund inadvertent overcharges promptly. Even the promptest refunds do not reach all ratepayers, due to deaths, changes of address, and other intervening circumstances. The public interest requires

¹See, for example, In the Matter of Proposals by Midwest Gas Company to Make Two Refunds Through its Annual True-up Adjustment, G-010/MR-89-669, G-010/MR-89-761, ORDER DENYING VARIANCE REQUEST AND REQUIRING REFUND PLAN (November 29, 1989) and In the Matter of the Petition of Northern States Power - Gas Utility for Variances from Minn. Rules, Part 7825.2700, Subp. 8 to Issue Refunds to Customers Via a Credit to the Monthly Purchased Gas Adjustment Billing Factor, G-002/M-95-82, ORDER GRANTING VARIANCE AND DIRECTING REFUND (May 3, 1995).

achieving the closest match possible between the customers who paid the overcharges and the customers who receive the refunds.

Neither does the interest paid on accumulated refunds always compensate ratepayers adequately for the loss of the use of their money. This is especially true of low income customers, who may have forgone other necessities to meet their utility bills, and business customers, who often prefer to make their own decisions on how and when to deploy their capital.

For these reasons, the Commission has long encouraged utilities to develop and perfect their ability to make prompt, precise refunds, instead of requesting relief from refund requirements. For the same reasons, the Commission will deny the Company's request.

III. The Department's Alternative

The Department recommended denying the Company's request, but suggested, in the alternative, permitting the Company to make the refund as part of its annual purchased gas adjustment (PGA) true-up, required under Minn. Rules 7825.2700, subp. 7. The advantages of refunding through the true-up would be that refunds could begin immediately and administrative costs would be lower. The disadvantages would be that the refund process would take twelve months and that a final true-up would have to be made at the end of the twelve-month period.

The Commission will reject this proposal for the same reasons it rejected the Company's request and notes that it has previously rejected an essentially identical request from Midwest Gas:

As a policy matter, however, the Commission has already established a clear policy that certain refunds, such as those in question here, should be made through checks or credits rather than through the true-up adjustment to assure that these over-collected amounts return to those from whom they were overcollected. . . .

In the Matter of Proposals by Midwest Gas Company to Make Two Refunds Through its Annual True-up Adjustment, G-010/MR-89-669, G-010/MR-89-761, ORDER DENYING VARIANCE REQUEST AND REQUIRING REFUND PLAN (November 29, 1989), at 3.

The Commission continues to believe that the purposes of the annual true-up and the annual supplier/transporter refund are different, and that these two types of refunds should be treated differently.

IV. Interest on Delayed Refund

Finally, the Commission will set interest on the refund from the date of this Order until the date of disbursement at the Company's tax-adjusted rate of return (11.796%). Normally, the rules provide for interest at the prime rate. Minn. Rules 7825.2700, subp. 8. That rate, however, assumes disbursement every twelve months. Interest rates are generally higher for longer term investments, and fairness requires an adjustment here.

Requiring interest at the same rate the Company charges delinquent customers (18%) has some appeal, but that rate reflects a more pressing need to encourage prompt payment than exists at this point in this case. The Commission believes requiring the same return as the Company would theoretically earn on the amounts held (its tax-adjusted authorized rate of return) is just and reasonable. The Commission will so order.

V. Conclusion

For the reasons set forth above the Commission rejects the Company's request for a variance and the Department's alternative proposal. The Commission will require the Company to pay interest on the refund amount at its tax-adjusted authorized rate of return from the date of this Order until the date of disbursement.

ORDER

1. Northern States Power Company - Gas Utility's request for a variance from Minn. Rules 7825.2700, subp. 8 is denied.
2. The Company shall make the refund at issue as soon as practicable.
3. From the date of this Order until the refund is disbursed, interest shall be calculated at the Company's tax-adjusted authorized rate of return.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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